

House File 2101 - Introduced

HOUSE FILE 2101
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 473)
(SUCCESSOR TO HF 56)

A BILL FOR

1 An Act relating to the acquisition of water, sanitary sewer,
2 and storm water utilities by rate-regulated public
3 utilities.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.84, subsection 2, Code 2024, is
2 amended to read as follows:

3 2. *a.* A public utility shall not acquire, in whole or in
4 part, a water, sanitary sewer, or storm water utility with
5 a ~~fair market value~~ purchase price of five hundred thousand
6 three million dollars or more from a non-rate-regulated entity
7 described in section 476.1, subsection 3, unless the board
8 first approves the acquisition. In addition, if the utility to
9 be acquired is a city utility, then the public utility shall
10 not acquire the city utility until the city has first ~~met~~
11 certified completion of the requirements of ~~section 388.2A~~
12 sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.
13 A certified completion submitted pursuant to this paragraph
14 shall contain an affirmation that the city that is the subject
15 of the acquisition has timely and substantially complied in
16 relation to the acquisition with the applicable provisions of
17 sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.

18 *b.* If a water, sanitary sewer, or storm water utility that
19 is the subject of an acquisition meets the requirements of
20 paragraph "a", then the acquiring public utility may apply to
21 the board, prior to the completion of the acquisition, for
22 advance approval of a proposed initial tariff for providing
23 service to customers of the acquired utility.

24 *c.* As part of its review of the proposed acquisition,
25 the board shall specify in advance, by order issued after a
26 contested case proceeding, the ratemaking principles that will
27 apply when the costs of the acquired utility are included in
28 regulated rates. The lesser of the sale price or the fair
29 market value of the acquired utility as established pursuant
30 to section 388.2A, subsection 2, shall be used in determining
31 the applicable ratemaking principles. In determining the
32 applicable ratemaking principles, the board shall not be
33 limited to traditional ratemaking principles or traditional
34 cost recovery mechanisms. Among the principles and mechanisms
35 the board may consider, the board has the authority to approve

1 ratemaking principles that provide for reasonable restrictions
2 upon the ability of the public utility to seek an increase
3 in specified regulated rates for a period of time after the
4 acquisition takes place. The final order including the rate
5 base and approving the acquisition shall consider reasonable
6 and customary closing costs, the cost of appraisals, and
7 regulatory and legal expenses incurred in connection with the
8 acquisition.

9 *d.* In determining the applicable ratemaking principles,
10 the board shall find that the proposed acquisition will result
11 in just and reasonable rates to all customers of the public
12 utility, including but not limited to existing customers of
13 the public utility. In making this finding, the board may
14 consider any factor it reasonably concludes may affect future
15 rates, including but not limited to the price paid for the
16 acquired utility and the projected cost of reasonable and
17 prudent ~~changes to~~ investments in the acquired utility in order
18 to provide ~~adequate~~ safe and reliable services and facilities
19 to customers. The board shall consider whether there are
20 ratemaking principles that will result in just and reasonable
21 rates to all customers in determining whether to approve or
22 disapprove a proposed acquisition.

23 *e.* (1) In determining the applicable ratemaking principles,
24 the board shall require the public utility to submit a purchase
25 agreement for the acquisition and shall find that the purchase
26 agreement includes terms, conditions, requirements, and other
27 provisions applicable to the system to be acquired that are in
28 substantial compliance with the requirements in sections 362.3,
29 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.

30 (2) The purchase agreement shall include a term allowing
31 the parties thirty days, after final approval of the ratemaking
32 principles, to terminate the purchase agreement without
33 penalty.

34 ~~*e.*~~ *f.* If the acquisition involves a utility that is an
35 at-risk system as defined in [section 455B.199D](#), the board shall

1 issue a final order on an application for approval of the
2 acquisition within one hundred twenty days from the filing of
3 the application. For all other acquisitions, the board shall
4 issue an order within one hundred eighty days of the filing
5 date of the application.

6 ~~f.~~ g. Upon the approval of a proposal for acquisition
7 by board order, the parties subject to the acquisition shall
8 have the option of either proceeding with such acquisition or
9 not, subject to any termination provisions contained in the
10 acquisition agreement.

11 ~~g.~~ h. Notwithstanding any provision of **this chapter** to the
12 contrary, the ratemaking principles established by the board
13 pursuant to **this section** shall be binding with regard to the
14 acquired utility in any subsequent rate proceeding.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the acquisition of water, sanitary
19 sewer, and storm water utilities by rate-regulated public
20 utilities.

21 The bill increases the threshold amount requiring utilities
22 board (board) approval from \$500,000 to \$3 million when a
23 public utility is acquiring a water, sanitary sewer, or storm
24 water utility. The bill modifies city utility acquisition to
25 include that the city must first certify completion of the
26 requirements of Code sections 362.3 (regarding publication of
27 notices), 364.2 (regarding vesting power of franchises), 364.7
28 (regarding disposal of property), 384.84 (regarding rate and
29 charges, billing, and contracts), 388.2 (regarding submission
30 to voters), 388.2A (regarding the procedure for disposal of a
31 city utility by sale), and 388.6 (regarding discrimination in
32 rates). Current law requires that the city meet requirements
33 of Code section 388.2A, but not certify compliance.

34 The bill provides that the rate base in the final order
35 approving an acquisition shall include reasonable and customary

1 closing costs, the cost of appraisals, and regulatory and legal
2 expenses incurred in connection with the acquisition.

3 The bill provides that the board shall require a public
4 utility to submit a purchase agreement for the acquisition and
5 shall find the purchase agreement includes terms, conditions,
6 requirements, and other provisions applicable to the system
7 sought to be acquired and the public utility shall be in
8 compliance with specified provisions in determining applicable
9 ratemaking principles. The purchase agreement shall include
10 a term allowing the parties 30 days after final approval of
11 the ratemaking principles to terminate the purchase agreement
12 without penalty.

13 The bill provides that the board shall issue a final order
14 within 120 days of the filing of an application for the
15 acquisition of an at-risk utility system, or within 180 days
16 for all other acquisitions. Current law provides that the
17 board shall issue a final order within 180 days of filing the
18 application for a utility that is an at-risk system.